

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. __1.H__
Mtg. Date __July 19, 2016__
Dept. __City Manager__

Item Title: Elections Code §9212 Impact Analysis Report

Staff Contact: Lydia Romero, City Manager and James P. Lough, City Attorney

Recommendation:

Note and file the Elections Code §9212 Impact Analysis report

Item Summary:

At the June 21, 2016 City Council meeting, the City Council directed the staff to prepare an Elections Code §9212 impact analysis report pertaining to the proposed Initiative. Attached is the draft report for consideration.

Staff recommends note and file of the 9212 report, due to the fact that the Initiative failed to qualify.

Fiscal Impact: None

Environmental Review:

☒ Not subject to review
☐ Categorical Exemption

☐ Negative Declaration
☐ Mitigated Negative Declaration

Public Information:

☒ None
☐ Newsletter article
☐ Notice published in local newspaper

☐ Notice to property owners within 300 ft.
☐ Neighborhood meeting

Attachments:

A. 9212 Report

Attachment A

9212 Report

An Initiative to Rescind the Prohibition of Marijuana Dispensaries and Add the Medical Marijuana Regulatory Ordinance to the Lemon Grove Municipal Code ("LGMC")

INTRODUCTION AND PURPOSE: Lemon Grove Municipal Code Chapter 17.32 (Zoning)

On July 13, 2016, the County Registrar of Voters notified the City that it had certified a local initiative petition to Rescind the Prohibition of Marijuana Dispensaries and add the Medical Marijuana Regulatory Ordinance (hereinafter referred to as "Initiative" and attached as Exhibit 1) as qualifying for the November 8, 2016 statewide general election ballot. At the June 21, 2016 City Council meeting, the City Attorney and City staff were directed to prepare an "impact report" as allowed by state Elections Code Section 9212 prior to the City Council taking action.

The impact report analyzes potential legal, policy, and implementation impacts of the Initiative on the City and community

The impact report does not address many of the issues raised by opponents and proponents of the legalization of medical marijuana (i.e. whether marijuana has medicinal value, whether dispensaries lead to recreational use of marijuana, and whether marijuana should be legal or illegal). Because of the limited time to prepare the impact report, the findings of this report are preliminary in nature and are not intended to establish a policy position for the City.

Legal Analysis of the Proposed Ordinance

This Initiative adds Chapter 17.32 to the Lemon Grove Municipal Code. It allows Medical Marijuana Dispensaries to operate, with a Conditional Use Permit, in the Heavy Commercial, Limited Commercial, General Commercial and Light Commercial Zones. Dispensaries would be prohibited in all residential and Mixed-Use (Downtown Village Specific Plan and Central Commercial) Zones.

The Initiative allows Dispensaries to grow, process and dispense marijuana to a "qualified patient" or "primary caregiver" on the premises. Under state law, a "qualified patient" must have a prescription from a licensed physician.

Dispensaries shall be located at least 1,000 feet from public parks, playgrounds, licensed daycare facilities, schools, and alcohol and substance abuse treatment centers. The most direct route between the dispensary and the protected uses is used to measure distance limitations.

The Initiative includes background checks for Directors and employees. At least one state licensed, uniformed security guard shall be on duty during operating hours (maximum 8:00 A.M. to 8:00 P.M. daily). City and Sheriff's Department inspections of a Dispensary's premises are allowed with reasonable notice. Unannounced inspections are allowed if there is "probable cause" of a violation of law. Dispensary transaction, employee and patient records are maintained for a two-year period. Dispensaries shall maintain 24-hour recorded video

Attachment A

surveillance of the Dispensary premises. A centrally monitored alarm system is required. The interior and exterior shall be adequately lighted.

The Dispensary shall have an Operations Manual detailing the manner of operation and the facilities in use. Operating standards prevent dispensing medical marijuana to a qualified patient more than once a day. Medical marijuana shall not be consumed on premises unless authorized in the Conditional Use Permit. No Physician shall be allowed on premises to issue prescriptions to patients. Dispensaries shall not permit the on-site display of unprocessed marijuana plants or representations of marijuana plants in any area visible to the public. Sale of alcoholic beverages, tobacco and tobacco products, and drug paraphernalia are prohibited.

The Initiative also allows qualified patients to grow marijuana at their private single-family residence in the Residential Low and Residential Medium/Low zones. If the property is leased or rented, a notarized authorization from the landlord is required. All cultivation under the Initiative must be in an enclosed structure. The structure shall have a one-hour firewall.

The growing area shall not exceed fifty square feet. Cultivation lighting shall not exceed 1200 watts. The marijuana plants shall not be visible from outside of the premises. The residence shall maintain a kitchen, bathroom(s) and primary bedrooms. Cultivation of medical marijuana shall not be an authorized Home Occupation.

The Initiative authorizes the issuance of civil monetary fines for violations of the City requirements. A Business permit tax is set at fifteen dollars plus two dollars a person up to fifty persons. Mobile dispensaries, with no fixed business location in Lemon Grove, shall pay fifteen dollars plus two dollars per person, maximum of fifty.

MARIJUANA REGULATORY ORDINANCE

A. Land Use Provisions.

The Initiative adds Chapter 17.32 to the Land Use Title of the LGMC. (See, Exhibit 1, page 1.) This Chapter overturns the current City ban on medical marijuana dispensaries. The Chapter's purpose is to allow "cultivation, processing and dispensing of *medical marijuana*" in certain commercial zones. (Sec. 1, Attachment 1, §17.32.020(A).) Any applicant must obtain a Conditional Use Permit ("CUP") under the general CUP rules in LGMC §17.28.050. A CUP places conditions on a business before it is allowed to operate at a location in a business zone. CUPs are meant to mitigate problems caused by a business because of the type of business and unique to its location. With specified exceptions, the normal CUP conditions apply and the City Council may condition any medical marijuana dispensary under the general CUP rules but with the conditions found only in this proposed ballot measure.

i. Definitions.

Section 17.32.050 sets out definitions that are applicable to the proposed ballot measure. Most are taken directly from the Compassionate Use Act (CUA - Proposition 215, adopted by the state's voters in 1996). How to interpret those definitions will be subject to how they are interpreted under the State Initiative.

Attachment A

Other definitions are unique to the local measure and are used to interpret what conditions apply to the manner of operation of dispensaries that could be approved in Lemon Grove. They include “Director”, “Operations Manual”, “Premises”, and “Regulated Uses”. A “Director” operates a dispensary. “Operations Manual” is a guide for dispensary operations required under proposed Section 17.32.090(C)(6). “Premises” has the same definition as found in the Zoning Code. (LGMC Sec. 17.08.030.)

One legal concern involves the definition of a “Director”. The Director does not have to be a “qualified patient” or a “primary caregiver”. The CUA does not authorize the operation of a Dispensary by a person except these two categories of persons. Subsequent legislation has also limited the operation of a collective to a “qualified patient” or a “primary caregiver”. (Health & Safety Code Sec. 11362.775.) This code section is still in effect. Persons who have sought to sell or distribute medical marijuana who do not fit these two categories have been subject to prosecution. (*People v. Mitchell* (2014) 225 Cal.App.4th 1189; *People v. Hochnadel* (2009) 176 Cal.App.4th 997, 1018; *People v. Urzicenu* (2005) 132 Cal.App.4th 747.) The definition of “Director” cannot contradict the limitations of the Compassionate Use Act to allow a non-qualified patient or a primary caregiver unless they provide primary care to a member of the collective (dispensary).

ii. General Provisions.

Proposed Section 17.32.060 applies general rules to all types of allowed marijuana uses. Sub. (A) requires physician/patient confidentiality in accordance with the Compassionate Use Act of 1996 (“CUA”). Sub. (B) states that medical marijuana cultivation is allowed for qualified patients and primary caregivers. As discussed above, this does not change Lemon Grove law in that the City did not prohibit those allowed under the CUA to grow medical marijuana. However, the scope of the Ordinance appears to allow commercial cultivation for dispensaries. This is allowed under state laws recently adopted but likely conflicts with the CUA limitations on cultivation.

iii. Medical Marijuana Dispensary Regulations.

Sec. 17.32.090 contains requirements for the establishment of marijuana dispensaries. Dispensaries are allowed, by CUP, in the following zones:

- Heavy Commercial (HC)
- Limited Commercial (LC)
- General Commercial (GC)
- Light Industrial (LI)

Dispensaries are prohibited in the following zones:

- Mixed-Use Zones (Downtown Village Specific Plan/Central Commercial)
- Residential Zones (Residential Low/Medium (RLM), Residential Low (RL), Residential Medium (RM) and Residential Medium/High (RMH)

Dispensaries are prohibited in the central business area located around the intersection of Broadway and Lemon Grove Avenue. The proposed measure prohibits dispensaries from

Attachment A

locating in residential districts. The proposed Initiative prohibits dispensaries in the mixed use districts; the issue is that Lemon Grove allows mixed use projects in nearly all zones. However, such a strict interpretation would mean that no dispensaries would be allowed within the City boundaries. It is likely that the authors intended to draft a measure to prohibit the location of dispensaries in primarily residential zones. However, the meaning of this provision is unclear and could provide implementation problems, assuming passage of the Initiative.

There are small buffers between competing dispensaries and from certain “protected uses”. (Proposed Section 17.32.090(B).) “Protected uses” include:

- Public Parks
- Playgrounds
- Licensed day care facilities (*i.e.* more than six children in a day care)
- Schools
- Alcohol and substance abuse treatment centers

The buffer zone between these uses is 1000 feet. However, it is not measured based on a radius as with other buffer zones in the Lemon Grove Municipal Code. (*i.e.* adult uses 18.28.050(B).) A marijuana dispensary could be located abutting or a day care facility or a park if the “most direct route” required one to travel around the block for a distance of more than one thousand feet to get to the location of the dispensary. Residential property is not a “protected use” and requires no buffer from a marijuana dispensary.

Proposed section 17.32.090(C) sets out standards for each dispensary to be included in the Conditional Use Permit. Sub. 1 requires a criminal background check through the State Department of Justice criminal background check program (*Live Scan*). The person in charge of the dispensary (Director) cannot have been convicted of a “serious felony” or “possession for sale” of marijuana within the last ten years. A “serious felony”, under this section, includes the following:

Murder or voluntary manslaughter; mayhem; rape and other serious sex crimes; attempted murder; serious assaults; any burglary of the first degree; robbery or bank robbery; kidnapping; selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or a methamphetamine-related drug; grand theft involving a firearm; carjacking; and any conspiracy to commit an offense described as a serious felony. (Penal Code Sec. 1192.7.)

All other employees besides the “Director” cannot be employed if they have been convicted of any the above-listed crimes in the last five years. If any “Director” or employee commits one of these crimes while employed by a Dispensary, the Dispensary is required to terminate their employment upon their conviction becoming final. No sanction is required against the Dispensary if any of their officers or employees commits a crime while employed by the Dispensary.

Attachment A

Part of the operating standards requires a state licensed security guard to remain on premises while the Dispensary is open for business. (Proposed Sec. 17.32.090(C)(2).) There is no requirement for a security guard after hours.

The Dispensary Regulations require a “Community Relations Liaison”, 18 years old or older, to act as a contact for the Dispensary to “address community complaints or operational problems” with the Lemon Grove City Manager, County Sheriff’s Department or “neighbors within one hundred feet of the Dispensary”. The Liaison must provide their name, telephone number and e-mail address to those persons or parties listed above. The City Code Enforcement Officer is not included among the required persons to be contacted.

The proposed measure regulates inspections by law enforcement and City code enforcement. (Proposed Sec. 17.32.090(C)(4) & (5).) It prohibits patient records from being made public. Inspections require “reasonable” notice before law or code enforcement may enter the premises. Unannounced inspections require “probable cause” before the City or Sheriff’s Department staff may enter. This is the same standard as required to obtain a warrant from a court of law. Without prior notice, no City or law enforcement official may enter the premises of a Medical Marijuana Dispensary for any “inspection” purposes. Client records of persons who purchase medical marijuana must be kept. Purchase records must be kept for two years. Financial and employee records must be kept for two years.

When applying for a CUP to operate, a Dispensary must provide an Operating Manual for the premises. The Manual shall contain procedures, including, but not limited to, the following:

- The staff screening process including background checks.

- Dispensary hours of operation.

- The Dispensary site plan including adjacent land uses.

- Any security measures employed.

- A screening process for “qualified patients”.

- Patient records retention procedures.

- Inventory controls for medical marijuana including on-site cultivation and tracking of plants from outside sources.

- Other information as required by the Development Services Director.

(Proposed Sec. 17.32.090(C)(6).)

The conditions found above shall be a part of any CUP. A legal question arises designating the naming of the Development Services Director as the only one who can propose conditions. This contradicts with the general requirement that the approval of a Dispensary is to be made pursuant to the CUP process in the City Municipal Code. It is the opinion of the City Attorney that any reference requiring approval by a designated officer is subject to change by a reviewing body (*i.e.* City Council).

vi. Qualified Patient/Customer Operating Standards.

Proposed Sec. 17.32.090(C)(7) defines actions and the relationship between a “qualified patient” and an approved Dispensary. No marijuana will be supplied to a qualified patient or

Attachment A

primary caregiver more than once a day. Dispensaries must validate that a qualified patient's prescription is still valid. No physician shall be allowed to sit on-site and write prescriptions. Client rules and regulations are to be displayed in plain view of customers. The rules include:

- No using the medical marijuana on premises or "in the vicinity".
- Signage shall list the prohibition against allowing persons into the premises under the age of 18.
- Hours of operation shall be 8:00 A.M. to 8:00 P.M. unless otherwise specified in the CUP.
- Unless allowed in the CUP, no on-site consumption of medical marijuana.
- No on-site display of unprocessed marijuana plants.
- No representation of marijuana plants visible to the public.
- The Dispensary must obtain a sign permit and cannot use any terminology or symbols for marijuana.

The operations shall also be subject to a CUP. The CUP must be consistent with the operation standards set out in the Proposed Measure. One note on one of the Initiative's operational standards, state law recently changed to increase the age of smoking or vaping to 21, while dispensaries are allowing persons into their facilities to purchase at 18 years of age.

v. Training.

Proposed Sec. 17.32.090(C)(7) also requires on-site training of employees in issues that are particular to the Medical Marijuana industry. This section also requires recordkeeping for tax purposes and implementation of procedures found in the Operating Manual. An Annual Report must be filed with the Development Services Director detailing the operations of the dispensary. The Development Services Director may approve amendments to the Operations Manual. Since the Operation Manual is approved as part of the CUP, it is assumed that any amendments are subject to appeal to the appropriate reviewing body. A Dispensary shall not sell alcoholic beverages, tobacco or tobacco-related products, or drug paraphernalia. Each dispensary shall install a centrally monitored alarm system. They shall also adequately light the exterior and interior.

vi. Source of Marijuana.

Proposed Sec. 17.32.090(C)(8) allows, with a CUP, to grow marijuana on-site at the commercial dispensary. The cultivation area cannot exceed twenty-five percent of the total floor area of the dispensary up to a maximum of 1500 square feet. All building codes must be followed and the Operations Manual shall include methods to offset energy usage; describe chemicals stored or used; and include a description of effluent being discharged into the sanitary sewer system or the stormwater system. It is necessary to point out that compliance with all building codes does not include adhering to or complying with fire codes.

Marijuana may only be obtained from legal sources under California laws. The State is currently in a transition period while it establishes regulations on medical marijuana. It is expected that such regulations will be in place by January 1, 2018. Attached to this 9212 Report is a power

Attachment A

point presentation by the California State Bureau of Medical Marijuana Regulation explaining the status of the State efforts to regulate medical marijuana under the CUA.

B. Medical Marijuana Cultivation Regulations.

Proposed Sec. 17.32.100 regulates the cultivation of marijuana in Lemon Grove. Under the Compassionate Use Act, qualified patients and their primary caregivers could grow medicinal marijuana for their own use on their own residential premises. Nothing in existing Lemon Grove regulations prohibits qualified individuals from growing their own medical marijuana within the limits of the CUA. Tenants would need the permission of their landlord.

Proposed Sec. 17.32.100(A)(1) allows the cultivation of medicinal marijuana along the same lines as existing law under the CUA, which preempts local regulation. The proposed measure requires a notarized authorization from a property owner to allow a tenant to grow. The cultivation rules under this section apply to single-family homes, one location per authorized grower, in the Residential Low (RL) and Residential Low/Medium (RL/M) zones.

The measure allows cultivation in enclosed structures capable of being secured and locked. Garage conversions require a replacement structure that meets parking standards. The grow area shall be within a self-contained structure with a one hour firewall that is ventilated to control odors and mold. The interior area shall not exceed fifty square feet, including when it is an accessory structure. (LGMC Sec. 17.24.060; Cal. Building Code Secs. 1203.4 or 402.3.)

Cultivation lighting shall not exceed 1200 watts. No cultivation area shall be visible from outside. The Measure bars the City from requiring a Home Occupation Permit for residential cultivation. No sales or dispensing of marijuana is allowed from a residence. No signage is allowed. It also bans the use of butane or carbon dioxide.

The measure allows deviations from the residential cultivation standards with the review and approval of the Development Services Director. The Zoning Clearance process under LGMC Sec. 17.32.090. C§8 is used. This includes deviations from the growing area limitations or a larger area with more than one qualified patient living at the residence. In no event shall the area where actual cultivation of marijuana exceeds 100 square feet.

C. Transportation and Delivery of Medical Marijuana.

Proposed Sec. 17.32.110 authorizes transportation of medical marijuana by “qualified patients” and “primary caregivers”. Persons not in these two categories cannot transport medical marijuana. The Bureau of Medical Marijuana Regulations is now in process of creating rules for transportation in the State. To the extent that these regulations will be consistent with the voter-approved Compassionate Use Act of 1996.

D. Code Enforcement Regulations.

Proposed Section 17.32.120(A) controls the code enforcement process for Dispensaries. Under Sub. (1), the City is required to give one warning, regardless of the severity of the violation, before beginning the administrative fine process. If the first violation is not corrected in seven

Attachment A

days, a \$500 fine can be issued per violation. Fines may escalate under the procedures found in LGMC 1.12.010 & 1.12.020. The text of the measure cites 1.12.012 that does not exist.

Under Sub. (2), the normal CUP or Zoning Clearance revocation process is referenced. (LGMC Sec. 17.28.020(N).) However, there is no mention in Proposed Section 17.32.120(A) of other cumulative remedies, civil and criminal. It is limited to the Administrative Citation and Revocation process. No language limits the use of other authorized state or local civil or criminal remedies. Therefore, all other civil and criminal remedies remain available to remedy violations of the proposed legislation.

Proposed Section 17.32.120(B) allows a transfer of the Permit to another Dispensary. However, state law, under the CUA, would still require that the transferee be a “qualified patient” or a “primary caregiver” member of the dispensary.

The normal appeal process governs appeals. Regardless of who is designated as the decision maker, all decisions are subject to the normal appeals process. Further, Proposed Section 17.32.120 allows for full cost recovery for permit processing. As discussed below, permit processing costs do not cover the day-to-day law enforcement and other increases in general government costs because of the new use allowed by this proposed measure.

Subsection (E) of 17.32120 raises a question about the ability of the City Council to amend the Measure without a vote of the People. It states that amendments to “this Chapter” may be made using the normal zoning amendment process. This conflicts with Section Five of the Measure which limits Council amendments. Section Five limits Council amendments to specified types of amendments. Because of the conflicts between these two provisions, it is unlikely that the City Council may amend the substance of the provisions contained in the regulatory ordinance (Proposed Lemon Grove Municipal Code Chapter 17.32.)

INTRODUCTION AND PURPOSE: Lemon Grove Municipal Code Section 5.04.220 (Business License Tax)

Each business in the City of Lemon Grove pays a business license tax. The proceeds from these taxes provide general purpose revenue to the City to offset the general costs of providing governmental services such as road maintenance, police, fire, and other general services. These services are different than specified services provided to a particular business for processing of entitlements or permits. The City is allowed to recover the direct costs associated with those permit or entitlement costs attributable to the efforts to process the permit.

In the case of a medical marijuana dispensary, studies in other cities have shown a significant increase in the need for general government services, particularly law enforcement and paramedic services. These general services cannot be charged through permit fees. The full cost recovery provisions of the proposed measure will not help the City recover the majority of costs found to be associated with medical marijuana dispensaries. The business license tax is the main method for recovery of these generalized costs that will be generated by the marijuana dispensaries. As demonstrated herein, the proposed measure falls short of paying for the burdens it will place on the City’s General Fund.

Business Permit Tax (Proposed LGMC Sec. 5.04.220.)

A. Base Business License Fee

The Proposed Ordinance requires that an annual tax be paid of fifteen dollars plus two dollars per member of the Dispensary. This is different than the general fees, established in 1978, which is two dollars per employee up to fifty employees. The same application of 1978 Business License Fees applies to out-of-town businesses that operate in Lemon Grove.

As discussed elsewhere in this Report, the impacts of this type of business would far outweigh the other types of businesses in Lemon Grove in categories such as calls for law enforcement services and would rival nursing homes in calls for ambulance service. In the Municipal Code, a variety of business types have higher rates to compensate for their unique impact on general City services.

The Lemon Grove Business License Tax structure has not been amended since 1978. In 1978, Medical Marijuana Dispensaries did not exist. The policy question for the City Council is whether dispensaries should be taxed at 1978 rates applicable to general businesses or not.

Here, a Medical Marijuana Dispensary has several elements that make it a demonstrated use that requires more general city services, mainly law enforcement. Studies by other California cities that have allowed medical marijuana dispensaries have shown higher law enforcement costs associated with dispensaries and their surrounding environs. The Dispensaries operate on a cash basis, due to federal banking restrictions, and provide a target for burglary and robbery. In Lemon Grove, this increased law enforcement burden has already been demonstrated surrounding illegal dispensaries that have been operating. Security measures in the proposed Measure only require a single security guard during operating hours. However, attempts to burglarize these establishments would likely occur after hours. A single security guard inside an establishment would not prevent robberies of customers carrying cash and/or marijuana outside of the establishment. As stated above, this has already occurred in Lemon Grove.

Except for non-profits and certain other exempt businesses, the City may tax Dispensaries based on a percentage of their receipts. (California Business & Professions Code Sec. 16000-16004; California Gov't Code Sec. 37100.5.) Cities around the State impose a receipts tax in the range of 5 to 10%. Los Angeles is considering raising their 6% tax to 15% to pay for the associated costs of Dispensaries. San Diego is currently considering a tax measure that sets the rate at a maximum of 15% with the City Council determining what rate should be set within that maximum. A copy of the proposed San Diego Ordinance and background information is attached to this Report (Exhibit "B".)

Other Impacts of the Initiative

Effect on General Plan/Specific Plans

Attachment A

Staff analyzed the Initiative regarding its effects on the General Plan, the Downtown Village Specific Plan, and the Housing Element. Staff also considered the Initiative's consistency between planning and zoning. Because of the location of schools and parks, it appears that dispensaries could not locate in the Downtown Village Specific Plan boundaries. In terms of impacts (negative or positive), staff cannot identify quantifiable impacts to the City's General Plan or Housing Element. Consistency issues related to planning and zoning are covered in earlier in this report.

Effect on Land Use

Staff analyzed the Initiative's "effect on the use of land, the impact on the availability and location of housing, and the ability of the City to meet its regional housing needs." Staff cannot identify quantifiable impacts to effects on land use or the City's ability to meet regional housing requirements or needs.

Impact on City Infrastructure

Staff analyzed the Initiative's "impact on funding for infrastructure" and whether the Initiative would likely "result in increased infrastructure costs or savings, including the costs of infrastructure maintenance." The Initiative does not allow the City to analyze environmental impacts (impacts on infrastructure such as roads) and require mitigation measures. However, assuming that three dispensaries are located in the City, distributed along Broadway, staff does not believe that there will be a quantifiable impact on infrastructure maintenance costs.

Impact on Ability to Attract & Retain Businesses/Employment

Staff analyzed the Initiative's "impact on the community's ability to attract and retain business and employment." Staff does not have quantitative data to support whether the Initiative will aid or deter the attraction or retention of businesses. However, from staff's observations of medical marijuana dispensaries, staff does not believe that a dispensary will aid in attracting or retaining businesses to the City.

Impact on Use of Vacant Parcels

Staff analyzed the Initiative's "impact on the uses of vacant parcels of land." Staff does not have quantitative data to support whether the Initiative will have an impact on the development or use of vacant parcels in the City. It is most likely that a dispensary locating to Lemon Grove will utilize existing vacant commercial space and would not develop a vacant parcel.

Impact on Traffic, Business Districts & Revitalization

Staff analyzed the Initiative's "impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization." Staff could not quantify traffic congestion impacts or impacts on the City's business districts. Based on potential sales tax data, it is likely that a dispensary would not generate more traffic than a typical gasoline station. However, the Initiative does not allow the City to analyze traffic congestion impacts as part of an environmental review process. Likewise, the Initiative does

Attachment A

not allow the City to require mitigation measures to traffic congestion impacts. Also, staff could not quantify impacts (negative or positive) to the City's existing business districts.

Crime

Proponents of medical marijuana dispensaries support the supposition that there is not a link with crime and the location of marijuana dispensaries. Lemon Grove's recent experience with several illegal marijuana dispensaries contradicted that supposition. One illegal dispensary experienced a break-in with both product and cash stolen. The dispensary owner would not cooperate with law enforcement to pursue the case. In the instance of another illegal dispensary in Lemon Grove, dispensary personnel threatened a mail carrier in their course of delivering mail to the dispensary. In the case of one other illegal dispensary, an armed robbery occurred of a person leaving the dispensary location. The dispensary personnel again would not cooperate with the law enforcement investigation regarding a crime that occurred on their property by one of their customers. The novelty of medical marijuana dispensaries in the region do not provide sufficient evidence to determine the rate of crime increases or decreases as a result of a medical marijuana dispensary.

It would be imperative to add additional Sheriff's personnel to handle the additional calls for service, investigations and permitting reviews. The first year cost to add one additional deputy, including all the one time costs such as a vehicle, radios, etc., is approximately \$330,000. Ongoing costs are about \$160,000 per year which includes all personnel costs, equipment and overhead. It would be imperative to increase the complement of Sheriff's Deputies the City contracts for with by 4 additional personnel – a patrol supervisor and three deputies.

In conclusion, the City of San Diego permits medical marijuana dispensaries to open and operate legally under prescribed rules. The City of San Diego is still experiencing many illegal dispensaries operating without going through the permitting process. Passage of the Initiative does not ensure only legally permitted dispensaries will operate in the City of Lemon Grove.

###